

**Regular Minutes  
City Council/Redevelopment Agency  
City of Huntington Beach**

Monday, January 3, 2005  
4:00 P.M. - Room B-8  
6:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

A videotape of the 6:00 p.m. portion of this meeting  
is on file in the Office of the City Clerk.

**Call to Order**

Mayor Hardy called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 4:00 p.m. in Room B-8.

**City Council/Redevelopment Agency Meeting Roll Call**

Present: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook (Green arrived at 4:05 p.m., Bohr arrived at 4:06 p.m.)  
Absent: None

**(City Council/Redevelopment Agency) Study Session Held – Work Program and Accomplishments of the Huntington Beach Conference and Visitors Bureau (HBCVB) (140.70)**

Dale Dunn, Vice Chairman of the HBCVB, gave a PowerPoint presentation titled *HB Conference and Visitors Bureau: Past, Present & Future*, which was included in the agenda packet. Mr. Dunn informed Council he has served continuously on the Bureau since its inception 16 years ago. He spoke about the Bureau's early history and recent history, including accomplishments in the past three years.

Mr. Dunn introduced Cormac O'Modhrain, Chairman of the CVB, who continued the presentation by speaking regarding Bureau staff and Work Program including administration, Visitor Center statistics, 2005 Visitor Guide, expanded advertising campaign, website, continuing representation, marketing initiatives, and how funds are invested.

The President of the Bureau, Doug Traub, completed the presentation by speaking about visions for the future of tourism in Huntington Beach. Mr. Traub informed Council of the top Bureau funding requirements, and suggested a long-term funding contract between the City and the CVB.

Council inquiries ensued regarding past funding, the Transient Occupancy Tax (TOT), the hotel/motel business improvement district (BID), marketing opportunities, where additional funds would be spent, return on investments, and repeat visitors to the City. Bureau committee members and Economic Development Director David Biggs reported in response to the inquiries.

Mr. Traub informed of his availability to meet with any councilmembers who were unable to attend the recent Economic Conference held on December 14, 2004.

**Motion to Recess to Closed Session – Approved**

A motion was made by Coerper, second Sullivan to recess to Closed Session on the following items. The motion carried by unanimous consent

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is Southern California Water Company v. City of Huntington Beach, et al. (Franchise Agreement Case); Orange County Superior Court Case No. 03CC02021, Appeal Case No. G032709; and Southern California Water Company v. City of Huntington Beach (Eminent Domain Case), Orange County Superior Court Case No. 04CC08141. Subject: **Southern California Water Company v. City of Huntington Beach.** (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(c) to confer with City Attorney regarding pending litigation based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation. Number of Potential Cases: One. Subject: **Potential Litigation regarding Geoscience Analytical, Inc.** (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Penelope Culbreth-Graft, City Administrator; Dan Villella, Finance Officer; and Irma Youssefieh, Human Resources Manager regarding labor relations matters – meet and confer with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated.** Subject: **Labor Relations – Meet & Confer.** (120.80)

**Reconvened City Council/Redevelopment Agency Meeting – 6:00 P.M. – Council Chambers.****City Council- Redevelopment Agency Roll Call**

Present: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
Absent: None

**(City Council) City Attorney's Report of Action Taken by the City Council in Closed Session on January 3, 2005 Pursuant to Government Code §54957.1(a) (2) Regarding Southern California Water Company v. City of Huntington Beach – Settlement Agreement, Terms Contingent upon Franchise Agreement to Return to Council at a Future Date Uncertain.** (630.30)

City Attorney Jennifer McGrath reported that on Monday, January 3, 2005 the City Council convened in Closed Session to discuss the matter of Southern California Water Company v. City of Huntington Beach, et al. (Franchise Agreement Case); Orange County Superior Court Case No. 03CC02021, Appeal Case No. G032709; and Southern California Water Company v. City of Huntington Beach (Eminent Domain Case), Orange County Superior Court Case No. 04CC08141 and that a settlement agreement had been reached.

The significant terms of the settlement include a \$126,000 payment to the City of Huntington Beach, which is contingent upon the approval of a franchise agreement at a future meeting.

**Pledge of Allegiance** – Led by Mayor Jill Hardy

**Invocation** – Led by Reverend Peggy Price, President, Greater Huntington Beach Interfaith Council

**The City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication submitted by John and Jackie Satterthwaite dated December 29, 2004 titled *For Thursday packets for Monday January 3<sup>rd</sup> 2005 Meeting* in opposition to Zoning Text Amendment 03-01 and Ordinance 3692 which amends Chapters 203 and 230 Of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions, Fencing and Yards.

Communication submitted by Peter Valov dated December 28, 2004 titled *Ordinance 03-01* in opposition to Zoning Text Amendment 03-01 and Ordinance 3692.

Communication submitted by Joseph and Eleanor Nissim dated December 29, 2004, untitled, in opposition to Zoning Text Amendment 03-01 and Ordinance 3692.

Communication submitted by Thomas Kiesewetter dated December 29, 2004 titled *Zoning Text Amendment 03-01* in opposition.

Communication submitted by Mike Palikan dated January 3, 2005 titled *Petition in Opposition to Zoning Text Amendment 03-01 (Through-Lot Development Standards)* and signed by 43 homeowners in July 2004.

Communication submitted by Adrienne Parks dated January 3, 2005 and titled *Opening "Closed" Public Testimony re: D-1 Through Lots Amendment*.

Communication submitted by Scott and Jennifer McCallister dated January 3, 2005 titled *Proposed Zoning Text Amendment No. 03-01 Amending Ordinance No. 3692, 1/3/05 City Council Agenda No. G-2a* in opposition.

Communication submitted by Adrienne Parks dated January 3, 2005 titled *Please forward to City Attorney in advance of tonight's CC meeting* in opposition to the proposed Through Lots Zoning Text Amendment and Ordinance.

Communication submitted by Shirley Doo, undated and untitled, in opposition to proposed Ordinance No. 3692.

Communication submitted by Donald Goodwin dated December 30, 2004, untitled, in opposition to Zoning Text Amendment 03-01 and Ordinance 3692.

**The Following Additional Late Communications Were Submitted During the Meeting:**

Communication submitted by Shirley Doo, undated and untitled, which is a group of 26 letters written by neighbors stating support for Ms. Doo's ability to build a retaining wall on her property.

Communication submitted by Art Hasegawa dated 1997 titled *Conditional Use Permit No. 97-62, New retaining wall at 16901 Westport Drive* which is a collection of letters sent to the City and received from the Zoning Administrator in 1997.

Communication submitted by Jackie Satterthwaite, undated and untitled, concerning the Taylor residence on Gilbert Island.

### **Public Comments**

**Judith Zeller**, Main Street resident, spoke regarding the staking out time change for the 4<sup>th</sup> of July parade. Ms. Zeller requested Council to consider moving the time to 9:00 p.m. instead of 9:00 a.m.

**Jean Nagy** spoke in opposition to the proposed Through Lots Zoning Text Amendment on the agenda. Ms. Nagy stated reasons including the opinion that restrictions would create an undue burden on homeowners.

**Dora Kaikainahaole** stated her concerns about property rights, and asked that her rights be protected.

**Shirley Doo** presented a PowerPoint slide of a proposed wall and landscape and inquired about requirements for approval. Ms. Doo distributed a Late Communication to the City Clerk for the record.

**Art Hasegawa** distributed a Late Communication consisting of letters to and from the City regarding a wall built on his property. Mr. Hasegawa asked the City Council to consider all of the Public Comments made about the Through Lots Ordinance.

**Steve Stafford** informed Council that there are flood problems in the high school parking lot in his neighborhood, which he alleged have caused cracking in the foundation of the property on which he lives.

**Jack Crosthwait**, resident of Gilbert Island, spoke in opposition to Zoning Text Amendment (ZTA) 03-01. Mr. Crosthwait stated through lot and waterfront homeowners support his position, and urged a "no" vote on the proposed item.

**Nina Patten** spoke in support of ZTA 03-01 referring to safety and uniformity issues.

**Jack Lopin** spoke regarding property rights and restrictions, citing obligations and responsibilities that come with ownership.

**Shirley de Heras** spoke in favor of ZTA 03-01, stating her opposition to all walls and her support of restrictions.

**Carole Garrett** spoke regarding the safety and risk assessment responsibility of walls, the forum for variance hearings, notification, and definitions concerning the proposed ZTA 03-01.

**Manfred Lengsfeld** spoke in favor of ZTA 03-01 as an engineer involved in seismic design equipment. Mr. Lengsfeld informed Council of international building codes, which he stated may affect the proposed retaining walls.

**Scott Dowds** spoke in opposition to ZTA 03-01 stating concerns with the taking of property rights. Mr. Dowds urged Council to strike down the amendment and accept staff recommendations.

**Dr. Andrew Tarnawski** spoke in opposition to ZTA 03-01 citing concerns regarding property rights, reduction in property value, and privacy rights. Dr. Tarnawski also referred to past meetings and whether their nature was open and public.

**Mike Palikan** cited property rights violations, limits to renovations, concerns regarding the tax base, and property values among his reasons for opposing ZTA 03-01.

**John Satterthwaite** stated his objection to ZTA 03-01 for reasons primarily due to concerns about erosion of slopes. Mr. Satterthwaite also expressed concern for budgetary reasons, asking Council to reject the amendment.

**Heide Palikan** reiterated her opposition to ZTA 03-01 for safety reasons, the violation of property rights, and the definition of double-fronted lots.

**Jackie Satterthwaite** alleged impropriety (conflict of interest) relative to the proposed ZTA 03-01. Ms. Satterthwaite distributed a Late Communication concerning the Taylor residence, and stated her concerns relative to property rights and special interests.

Councilmember Cook responded to the previous speaker's allegation, rebutting the conflict of interest issue and encouraging residents to contact the Fair Political Practices Commission (FPPC) if they suspect impropriety by any elected officials.

**Marlene Lopin** spoke regarding the availability of public documents relating to through lot concerns. Ms. Lopin stated her support for ZTA 03-01 and her opinion that through lots are not backyards.

**Jacquie McAniff** stated that walls exist that some say are eyesores and others that enhance the landscaping. Ms. McAniff stated her opposition to ZTA 03-01, that small interest groups have caused the resultant proposal, and asked Council to follow the staff's recommendations.

**Norma Gibbs**, former Seal Beach and Huntington Beach Mayor, suggested the planting of ivy relative to ZTA 03-01. Speaker commended the Planning Department, and expressed concern that there should be less legislation, speaking in opposition to ZTA 03-01.

**Scott McCallister**, purchaser of the True residence, spoke on the purchase of his property and of meeting with City staff. Mr. McCallister requested Council deny the proposed item citing concerns with unfair restrictions and the potential negative effect on property values.

**Elizabeth Rowell** spoke in opposition to ZTA 03-01 stating that property rights should be protected. Ms. Rowell urged Council to vote "No" on the item.

**Steve Ray**, representing the Planning Commission (PC), congratulated the newly elected Councilmembers' appointees: Fuhrman, Burnett and Dwyer. Mr. Ray invited attendance of all interested citizenry at a Planning Commission workshop scheduled for Tuesday, January 11, 2005 at 6:00 p.m. in the Council Chambers.

**Gail Stoter** spoke in support of ZTA 03-01 for reasons including the property rights of residences who view walls erected on through lots.

**David Lake** inquired as to why a compromise cannot be made regarding ZTA 03-01 as to the type of wall to be constructed. He also addressed what, in his opinion, is a lack of discussion on erosion issues relative to the matter. Mr. Lake lastly commented on “spite fences” related to privacy and safety.

**Jay Sheth** spoke in favor of preserving property rights and the ability of property owners to build walls.

**Donna Mance** spoke in opposition to ZTA 03-01 stating concerns with violations of privacy, property rights, and the maintenance of view fences. Ms. Mance also voiced a complaint of alleged inaccessibility to the Huntington Harbour Property Owners’ Association (HHPOA).

**Josh Rorem** spoke in support of preserving the property rights of through lot owners, asking the City Council to deny ZTA 03-01.

**Adrienne Parks**, Westport Drive resident, informed Council of expenses incurred in the renovation of her property. She reiterated her opposition to ZTA 03-01 citing government code regarding property rights. Ms. Parks asked Council how the City plans to compensate property owners if their property use is restricted.

**(City Council) Approved Request to Bring Forward Agenda Item to Consider Approval of Zoning Text Amendment No. 03-01 with Findings for Approval – Consider Approval of Introduction as Amended Ordinance No. 3692 Amending Chapters 203 and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions, and Fencing and Yards (450.20)**

A motion was made by Cook, second Coerper to bring forward the agenda item to consider approval of ZTA 03-01 with Findings for Approval and to consider approval for introduction as amended Ordinance No. 3692. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook

NOES: None

ABSENT: None

**(City Council) Denied Approval of Zoning Text Amendment No. 03-01 with Findings for Approval - Denied Introduction as Amended Ordinance No. 3692 Amending Chapters 203 and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions, and Fencing and Yards - Continued from the December 20, 2004 Meeting (450.20)**

Mayor Pro Tem Dave Sullivan recused himself from participation in this agenda item due to a possible conflict of interest.

Councilmember Debbie Cook reported orally, speaking of property rights issues, zoning, the abilities of cities to enforce restrictions, and whether the issue is really about the “fill” or the walls.

Councilmembers Gil Coerper and Don Hansen expressed opposition to approval of the item due to concerns relative to property rights protection and the differences in geography of the through lot properties.

Councilmember Keith Bohr also stated opposition, after having visited several properties in question and discussing the compromise with various parties.

Councilmember Cathy Green stated her opposition to approval based on concerns about property rights, privacy, and safety for children. She informed that she had toured through lot locations and does not find the proposed ZTA to be logical because there is not one solution which fits all properties.

A motion was made by Green, second Coerper to **deny** Zoning Text Amendment No. 03-01 with Findings for Approval. (Vote to follow)

Councilmember Cook expressed the concern that the Covenants, Conditions and Restrictions (CC&Rs) have not been enforced. She clarified her opposition to the walls, and to the compromise solution.

Further Council comments were made clarifying the existence of attractive walls, the City's responsibilities regarding enforcement of CC&Rs, and requesting neighbors to work together to address these issues in the future.

Mayor Jill Hardy cautioned that ugly walls could still be built, and stated that she would have liked to see a compromise. She stated that she would vote against denial in order to make a statement, though she expects the item will fail.

City Clerk Joan L. Flynn asked for clarification from the maker if the motion included denial of introduction Ordinance No. 3692 - amending Chapters 203 and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions, and Fencing and Yards

The maker of the motion and the second agreed to this amendment.

The **amended** motion to **deny** Zoning Text Amendment (ZTA) No. 03-01 and to **deny** introduction of Ordinance No. 3692 carried by the following roll call vote:

AYES:	Hansen, Coerper, Green, Bohr
NOES:	Hardy, Cook,
ABSENT:	None
ABSTAIN:	Sullivan

**(City Council) Announcement Made by Councilmember Debbie Cook of the Individual Appointment of (1) Randy Fuhrman to the Planning Commission; and the ReAppointment of (1) Tim Geddes to the Finance Board; (2) Carole Ann Wall to the Fourth of July Board; (3) Joe Foye to the Investment Advisory Board; and (4) George Mason to the Public Works Commission. (110.20)**

Councilmember Cook made the above announcements.

**(City Council) Announcement Made by Councilmember Keith Bohr of Individual Appointments of (1) Debbie Stock to the Fourth of July Board; (2) Brian Olson to the Investment Advisory Board; (3) Elizabeth Burnett to the Planning Commission; and (4) Pat Spencer to the Public Works Commission. The appointment for Finance Board will be announced at the January 18, 2005 Council Meeting. (110.20)**

Councilmember Bohr made the above announcements.

**(City Council) Announcement Made by Councilmember Don Hansen of Individual Appointments of (1) Devin Dwyer to the Planning Commission; and (2) Michael Siersema to the Public Works Commission. (110.20)**

Councilmember Hansen made the above announcements.

**(City Council) Announcement Made by Councilmember Gil Coerper of the Individual Appointment of Florence Rini to the Fourth of July Board. (110.20)**

Councilmember Coerper made the above announcement.

**(City Council) Announcement Made by Mayor Pro Tem Dave Sullivan of the Individual Appointment of Monica Hamilton to the Investment Advisory Board. (110.20)**

Mayor Pro Tem Sullivan made the above announcement.

**(City Council) City Administrator Penelope Culbreth-Graft Announced a February 22, 2005 Agenda Item Regarding Recreational Vehicle (RV) Parking. (160.10)**

Dr. Penelope Culbreth-Graft announced that an item regarding Recreational Vehicle (RV) Parking would be agendized for the Tuesday, February 22, 2005 City Council meeting.

#### **Consent Calendar – Item Removed for Separate Discussion**

The following item was removed from the Consent Calendar for separate discussion:

(City Council/Redevelopment Agency) Minutes

#### **Consent Calendar – Items Approved**

On motion by Coerper, second Bohr Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES:	Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook
NOES:	None
ABSENT:	None

**(City Council) Adopted Resolution No. 2005-1 which Amends Resolution No. 2004-21 by allowing the use of Styrofoam for the City's Senior Nutrition Program. (520.15) – Adopted Resolution No. 2005-1 – A Resolution of the City Council of the City of Huntington Beach, California, Prohibiting the use of Expandable Polystyrene (Commonly Referred to By the Trade Name "Styrofoam") Food Service Products Within City Facilities and at City-Sponsored Events. Submitted by the Community Services Director. Funding Source: Not Applicable.**



**(City Council) Adopted Resolution No. 2005-2 for Summary Vacation of Excess Right-of-Way, A Public Service Easement (Lot A, Adjacent to Lot 58 of Tract 4243 – commonly known as 5842 Trophy Drive).** (800.50) – Adopted Resolution No. 2005-2 – *A Resolution of the City Council of the City of Huntington Beach Ordering the Summary Vacation of the Public Service Easement Identified as Lot A, Adjacent Lot 58 of Tract 4243 (Commonly Known as 5842 Trophy Drive).* Submitted by Director of Economic Development and Director of Public Works. Funding Source: Not Applicable.

**(City Council) Approved to Deny Four Offers to Dedicate (OTDs) Public Access Easements Submitted by the Coastal Conservancy (1.) 15922 Pacific Coast Highway – Simple Green Building (2.) Countess Drive (Portofino Development) (3.) 16212, 16222, 16242 & 16246 Pacific Coast Highway (4.) 4212 Warner Avenue (Huntington Harbour Bay Club).** (650.80) – Submitted by Director of Planning, Director of Public Works, Director of Economic Development and Risk Manager. Funding Source: Not Applicable.

**(City Council) Adopted Resolution No. 2005-3 Approving Street Name Change from Alcala Drive to Veleta Drive, Tract 9580, Grid 462.** (800.70) – Adopted Resolution No. 2005-3 – *“A Resolution of the City Council of the City of Huntington Beach Providing for the Change of the Street Name of Alcala Drive to Veleta Drive.”* Submitted by the Chief of Police. Funding Source: Any costs associated with changing the street sign can be absorbed in the existing fiscal year 2004-2005 Police Department budget. The identified cost is related to changing the one street sign and is estimated to be \$26.00.

**(City Council/Redevelopment Agency) Minutes (120.65)**

The City Council considered a communication submitted by City Clerk Joan L. Flynn.

Councilmember Green requested that this agenda item be removed from the Consent Calendar to abstain from approving the November 29, 2004 minutes since she was absent.

A motion was made by Cook, second Sullivan to approve and adopt the minutes of the City Council/Redevelopment Agency Adjourned Special Meeting of November 29, 2004, the City Council/Redevelopment Agency Regular Meeting of December 6, 2004 as written and on file in the Office of the City Clerk. The motion carried by the following roll call vote:

AYES:	Coerper, Sullivan, Hardy, Cook
NOES:	None
ABSENT:	None
ABSTAIN:	Hansen, Green, Bohr

**(City Council) Adopted Ordinance No. 3693 Amending Chapter 10.12 of the Huntington Beach Municipal Code Relating to Speed Limits (580.60)**

After the City Clerk read by title, a motion was made by Green, second Cook to adopt **Ordinance No. 3693** – *“An Ordinance of the City of Huntington Beach Amending Chapter 10.12 of the Huntington Beach Municipal Code Relating to Speed Limits.”* (Approved for introduction at the December 20, 2004 Council Meeting.) The motion carried by the following roll call vote:

AYES:	Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook
NOES:	None
ABSENT:	None

**(City Council) Adopted Ordinance No. 3694 Amending Chapter 5.24 of the Huntington Beach Municipal Code Relating to Massage Establishments (570.10)**

After the City Clerk read by title, a motion was made by Green, second Bohr to adopt **Ordinance No. 3694** – *“An Ordinance of the City of Huntington Beach Amending Chapter 5.24 of the Huntington Beach Municipal Code Relating to Massage Establishments.”* (Approved for introduction at the December 20, 2004 Council Meeting.) The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr, Cook  
NOES: None  
ABSENT: None

**Adjournment – City Council/Redevelopment Agency**

Mayor Hardy adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach at 7:45 p.m. to Tuesday, January 18, 2005, at 3:30 p.m., in Room B-8 Civic Center, 2000 Main Street Huntington Beach, California.

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City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:

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City Clerk-Clerk

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Mayor-Chair